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7 **UNITED STATES DISTRICT COURT**  
8 **WESTER DISTRICT OF WASHINGTON**  
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10 RICHARD SANDERS,

11 Plaintiff,

12 v.

13 JE H CHARLES JOHNSON  
14 Secretary,  
15 Department of Homeland Security

16 Defendant.

**Case No.**

**COMPLAINT**

**JURY TRIAL DEMAND**

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18  
19 **COMPLAINT**

20 **I. PARTIES**

21 1. This is an action by Richard Sanders (hereinafter "Sanders" or "Plaintiff"),  
22 a resident of King County, Washington, who is employed by the Transportation Security  
23 Administration (hereinafter "TSA") of the United States Department of Homeland  
24 Security (hereinafter "DHS" or "Defendant") as a Transportation Security Officer (TSO)  
25 at the Seattle-Tacoma International Airport and was subjected to sexually harassing  
26

1 contact from his co-workers as a result of a training policy implemented by Defendant.

2 2. At times referenced herein, Plaintiff's employer, pursuant to Title VII of  
3 the Civil Rights Act of 1964 (as amended), 42 U.S.C. Section 2000(e) *et seq.*, is the  
4 Transportation Security Administration, under the Department of Homeland Security, Jeh  
5 Charles Johnson, Secretary.

## 6 II. JURISDICTION & VENUE

7 3. This Court has original jurisdiction over this action pursuant to Title VII  
8 of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e *et seq.*, and 28  
9 U.S.C. Sections 1331. The jurisdiction of this Court is invoked to secure protection of  
10 right guaranteed by federal law.

11 4. Jurisdiction is proper because Plaintiff has exhausted his administrative  
12 remedies. Plaintiff filed a complaint on October 25, 2015 with the TSA Equal  
13 Employment Opportunity Branch, Civil Rights, Diversity & Inclusion Division  
14 (hereinafter "EEO"). Plaintiff received notification from EEO that its investigation had  
15 been completed in a letter dated August 3, 2016. To date a final agency decision has not  
16 been issued and it has been more than 180 days since Plaintiff filed his Complaint with  
17 the EEO. Plaintiff may therefore file this civil action in the appropriated District Court  
18 pursuant to 29 C.F.R. 1614.407(d).

19 5. Venue lies in this Court pursuant to 28 U.S.C. Section 1391 because a  
20 substantial number of the unlawful employment practices alleged in this action took place  
21 within this District at the Seattle-Tacoma International Airport, where Plaintiff performed  
22 his job duties on behalf of Defendant.

## 23 III. GENERAL FACTUAL ALLEGATIONS

24 6. On information and belief, the Office of Security Operations for the TSA,  
25 initiated a plan requiring additional training on certain types of screening. In response to  
26 this plan, the Washington State region of the TSA prepared

1 its own plan which required each TSO to practice sensitive area pat-down training during  
2 each shift.

3 7. On or about June 23, 2015, all TSOs at the Seattle-Tacoma International  
4 Airport, including Plaintiff, had to conduct sensitive area pat-down training on their co-  
5 workers during their daily briefing. This particular pat-down required the TSO  
6 performing the screening to run the back of their hand down their co-worker's zipper, and  
7 then slide their hand up the inner thigh until resistance was met at the scrotum. This  
8 training was to continue for a period of three weeks.

9 8. On or about June 29, 2015 and June 30, 2015, Plaintiff spoke to  
10 Supervising Transportation Security Officer (hereinafter "STSO"), Amy Martin, to  
11 advise that he felt the sensitive area pat-down training comprised of unwelcome,  
12 unwanted touching as defined by the TSA's own sexual harassment policy. Plaintiff  
13 further explained that he had already been certified in this type of screening and that it  
14 was unnecessary. STSO Martin told Plaintiff that the training was required. Plaintiff  
15 performed the training.

16 9. On or about July 1, 2015, Plaintiff spoke to STSO, Jose Jaramillo, prior to  
17 the daily briefing to advise that the sensitive area pat-down training made him feel  
18 uncomfortable and that he did not want to participate. STSO Jaramillo informed Plaintiff  
19 that they were required to perform the training every day. Plaintiff performed the  
20 training.

21 11. On or about July 8, 2015, Plaintiff spoke to STSO, Jeannine Lewis, prior  
22 to the daily briefing to advise her he felt the sensitive area pat-down training constituted  
23 sexual harassment. STSO Lewis informed Plaintiff that the training had ended and he  
24 would not have to perform the sensitive area pat-down training. Plaintiff was further  
25 informed that management at the Office of Security Operations had determined that a  
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1 tabletop demonstration or quiz would be sufficient to reinforce the sensitive area pat-  
2 down screening.

3 12. During the time that the sensitive area pat-down training was in effect,  
4 Plaintiff learned that other TSOs were making comments about the size of each other's  
5 genitalia as a result of the sensitive area pat-down training requiring the TSOs to touch  
6 the groin area of their co-workers on a daily basis.

7 12. On or about September 3, 2015, STSO, Quinn Sealey, informed Plaintiff  
8 and the other Seattle-Tacoma International Airport TSOs that they would be required to  
9 perform the sensitive area pat-down training on each other. In response, TSO, James  
10 Hollister, informed STSO Sealey that he would rather be fired than perform the training.  
11 As a result of TSO Hollister's statement, other TSOs voiced objection to the training.

12 13. As a direct and proximate result of the sensitive area pat-down training,  
13 Plaintiff was humiliated, embarrassed, anxious, and made sick to his stomach. Plaintiff  
14 even considered calling in sick as a result of the training because it made him feel  
15 uncomfortable to place his hands on the genitalia of his co-workers, and friends, on a  
16 daily basis.

17 14. The TSA's Anti-Discrimination and Harassment Policy Statement  
18 provides, "[W]e each have a responsibility to ensure that these rights are afforded to  
19 everyone and promote a work environment that is productive, inclusive, and free from  
20 discrimination, harassment (sexual and non-sexual), and retaliation. Harassment of any  
21 kind...is strictly prohibited...Supervisors and managers are to take immediate and  
22 corrective action, including discipline, where appropriate. The use or abuse of official  
23 authority or position to intimidate, coerce, bully, or harass is strictly prohibited.



1 Furthermore, any supervisor or manager who has knowledge of such conduct, yet takes  
2 no action to end it, may also be subject to disciplinary action.”

3 15. Plaintiff’s supervisors and managers failed to take immediate and  
4 corrective action in response to Plaintiff’s concerns, as well as the concerns of other  
5 TSOs, about the sensitive area pat-down training in violation of its own Anti-harassment  
6 policy as well as Title VII, 42 U.S.C. Section 2000e-2(a).

7 **FIRST CAUSE OF ACTION**  
8 **SEXUAL HARASSMENT**

9 16. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 15  
10 of this Complaint as if fully alleged herein.

11 17. Plaintiff was subjected to unwelcome, offensive and sexually harassing  
12 conduct during his employment with DHS as a TSO as result of the sensitive area pat-  
13 down training put in place by DHS. Other reasonable means were available, and did  
14 become available at the direction of DHS, to conduct the sensitive area pat-down training  
15 that did not require Plaintiff to place his hands on the genitalia of his co-workers.

16 18. Defendant has engaged in unlawful employment practices in violation of  
17 Title VII, 42 U.S.C. § 2000e-2(a), by discriminating against and harassing Plaintiff on the  
18 basis of his sex, male, by subjecting him to sexual harassment by forcing him to engage  
19 in training that required him to place his hands on the genitalia of his co-workers, and  
20 friends, on a daily basis. This training was required despite Plaintiff’s objections and the  
21 availability of reasonable alternative methods of enforcing the sensitive area pat-down  
22 training, including, but not limited to, tabletop demonstrations, quizzing, or use of a  
23 mannequin or another human substitute.

24 19. Defendant discriminated against and harassed Plaintiff because of his  
25 gender in violation of Title VII, 42 U.S.C. § 2000e-(2)(a), by engaging in, tolerating or  
26 failing to prevent the gender-based harassment alleged

1 herein and by failing to take affirmative action to correct and redress these unlawful  
2 employment practices.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, Richard Sanders, respectfully requests that the Court  
5 issue a judgment granting him the following relief from Defendant:

6 a. Grant a permanent injunction enjoining the Defendant, its officers,  
7 successors, assigns, and all persons in active concert or participation with it from  
8 engaging in any employment practice which discriminates on the basis of sex;

9 b. Compensatory damages for emotional distress, embarrassment, and  
10 humiliation, pain and suffering, mental anguish, anxiety, inconvenience, and loss of  
11 enjoyment of life;

12 c. Punitive damages to punish the Defendant for its willful, wanton,  
13 oppressive, malicious, and/or grossly negligent conduct;

14 d. Costs expended herein, including reasonable attorneys' fees;

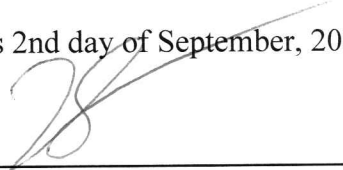
15 e. Pre-judgment and post-judgment interest; and

16 f. Any and all other relief to which Plaintiff may be entitled.

17  
18 **JURY TRIAL DEMAND**

19 Plaintiff requests a jury trial on all questions of fact raised by this Complaint.

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22 DATED this 2nd day of September, 2016.

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26 Kevin P. Smith, WSBA no. 48578  
Attorney for Plaintiff